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10/757,166	01/13/2004	Edward B. Keller	UNI29 111	3545

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EXAMINER
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MEINECKE DIAZ, SUSANNA M

ART UNIT	PAPER NUMBER
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3623

DATE MAILED: 07/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/757,166

**Applicant(s)**

KELLER ET AL.

**Examiner**

Susanna M. Diaz

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 6/14/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1. Claims 1-22 are presented for examination.

#### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

3. Claims 1, 3-6, 8-12, 14-17, and 19-22 are rejected under 35 U.S.C. 102(a) as being anticipated by Burson-Marsteller's e-fluentials<sup>SM</sup> research, as disclosed in Burson-Marsteller's archived e-fluentials web site, retrieved from [URL: <http://web.archive.org/.../efluentials.com...>]. These web pages have been archived by web.archive.org on June 1, 2002, February 3, 2003, and February 15, 2003.

E-fluentials discloses a method for identifying individuals in a population having a greater probability than other individuals in the population of influencing the choices made by individuals in the population comprising:

[Claim 1] a. formulating queries to be answered by an individual in a population such that the answers by an individual in a population indicate whether the individual has a greater probability than other individuals in the population of influencing choices made by individuals in the population (Page 2 -- A quiz is offered to individuals to determine if each individual is an influential person, or "e-fluential. "Representing 10%

of the online population, approximately 11 million users, this group reaches more people on more topics than the average online users”);

b. providing the queries to individuals in the population (Page 2 -- A quiz is offered to individuals to determine if each individual is an influential person, or “e-fluential; Page 3 -- E-fluential quiz questions are shown); and

c. analyzing the answers by the individuals in the population to determine which of the individuals in the population have a greater probability than other individuals in the population of influencing choices made by individuals in the population (Page 2 -- A quiz is offered to individuals to determine if each individual is an influential person, or “e-fluential. Pages 5-23 show the results of an E-fluential analysis);

[Claim 3] wherein the choices made by individuals are selected from the group consisting of:

consumer product decisions, consumer service decisions, political issue decisions, political candidate decisions, personal finance decisions, investment decisions, real estate decisions, insurance decisions, travel decisions, and leisure decisions (Page 3 -- An individual is inquired about sending e-mails to politicians, e.g., a decision relating to politics, and making friends online, e.g., a leisure decision);

[Claim 4] wherein the queries are based on factors selected from the group consisting of:

written or called any politician at the state, local, or national level; attended a political rally, speech, or organized protest of any kind; attended a public meeting on town or school affairs; held or run for political office; served on a committee for some

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local organization; served as an officer for some club or organization; written a letter to the editor of a newspaper or magazine or called a live radio or TV show to express an opinion; signed a petition; worked for a political party; made a speech; written an article for a magazine or newspaper; and been an active member of any group that tries to influence public policy or government (Page 3 -- An individual is inquired about sending e-mails to politicians, e.g., writing a politician (who is understood in the United States as being at the state, local, or national level), and sending e-mails to well-known news and media companies such as Time, Newsweek, or CNBS, e.g., writing a letter to a newspaper or magazine. The role of the recited editor is not defined in such a way that it affects the structure or functionality of the claimed invention; therefore, any individual who receives e-mail at a well-known news and media company from the potential E-fluent individual can be interpreted as the recited "editor");

[Claim 5] wherein the queries are based on factors selected from the group consisting of:

written or called any politician or contacted any government official at local regional or national level; attended a political rally, speech or event; attended a public meeting on town or school affairs; led or served on a committee on some local organization; written a letter to the editor of a newspaper or magazine or called a live radio or TV show to express an opinion; made a speech or gave a talk to a group; been an active member of a group that tries to influence public policy or create change in the community; asked a question in a public meeting; made a complaint to a store, company, or organization; made a sizable donation to a local or national organization;

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attended business lunches or dinners on a regular basis, and organized a special social event (Page 3 -- An individual is inquired about sending e-mails to politicians, e.g., writing a politician (who is understood in the United States as being at a local, regional, or national level)).

E-fluentials discloses a method for identifying individuals in a population having a greater probability than other individuals in the population of influencing the choices made by individuals in the population comprising:

[Claim 6] a. formulating queries to be answered by an individual in a population such that the answers by an individual in a population indicate whether the individual has a greater probability than other individuals in the population of influencing choices made by individuals in the population (Page 2 -- A quiz is offered to individuals to determine if each individual is an influential person, or "e-fluential. "Representing 10% of the online population, approximately 11 million users, this group reaches more people on more topics than the average online users");

b. providing the queries to individuals in the population (Page 2 -- A quiz is offered to individuals to determine if each individual is an influential person, or "e-fluential; Page 3 -- E-fluential quiz questions are shown);

c. analyzing the answers by the individuals in the population to determine which of the individuals in the population have a greater probability than other individuals in the population of influencing choices made by individuals in the population (Page 2 -- A

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quiz is offered to individuals to determine if each individual is an influential person, or “e-fluential. Pages 5-23 show the results of an E-fluential analysis);

d. identify a group comprised of the individuals who provided the answers to the questions that support the greater probability of influencing the choices made by individuals in the population (Page 2 -- A quiz is offered to individuals to determine if each individual is an influential person, or “e-fluential. Pages 5-23 show the results of an E-fluential analysis);

e. applying additional informational data to the identified group to assess a relationship between the additional information data and the identified group (Pages 5-23 show the results of an E-fluential analysis. Comparisons are made between identified influential people, or e-fluentials, and the general online population); and

f. applying the assessed relationship to a second population of individuals to determine which of the individuals in the second population having a greater probability than other individuals in the second population of influencing the choices made by individuals (Pages 5-23 show the results of an E-fluential analysis. Comparisons are made between identified influential people, or e-fluentials, and the general online population);

[Claim 8] wherein the choices made by individuals are selected from the group consisting of:

consumer product decisions, consumer service decisions, political issue decisions, political candidate decisions, personal finance decisions, investment decisions, real estate decisions, insurance decisions, travel decisions, and leisure

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decisions (Page 3 -- An individual is inquired about sending e-mails to politicians, e.g., a decision relating to politics, and making friends online, e.g., a leisure decision);

[Claim 9] wherein the queries are based on factors selected from the group consisting of:

written or called any politician at the state, local, or national level; attended a political rally, speech, or organized protest of any kind; attended a public meeting on town or school affairs; held or run for political office; served on a committee for some local organization; served as an officer for some club or organization; written a letter to the editor of a newspaper or magazine or called a live radio or TV show to express an opinion; signed a petition; worked for a political party; made a speech; written an article for a magazine or newspaper; and been an active member of any group that tries to influence public policy or government (Page 3 -- An individual is inquired about sending e-mails to politicians, e.g., writing a politician (who is understood in the United States as being at the state, local, or national level), and sending e-mails to well-known news and media companies such as Time, Newsweek, or CNBS, e.g., writing a letter to a newspaper or magazine. The role of the recited editor is not defined in such a way that it affects the structure or functionality of the claimed invention; therefore, any individual who receives e-mail at a well-known news and media company from the potential E-fluent individual can be interpreted as the recited "editor");

[Claim 10] wherein the queries are based on factors selected from the group consisting of:



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written or called any politician or contacted any government official at local regional or national level; attended a political rally, speech or event; attended a public meeting on town or school affairs; led or served on a committee on some local organization; written a letter to the editor of a newspaper or magazine or called a live radio or TV show to express an opinion; made a speech or gave a talk to a group; been an active member of a group that tries to influence public policy or create change in the community; asked a question in a public meeting; made a complaint to a store, company, or organization; made a sizable donation to a local or national organization; attended business lunches or dinners on a regular basis, and organized a special social event (Page 3 -- An individual is inquired about sending e-mails to politicians, e.g., writing a politician (who is understood in the United States as being at a local, regional, or national level));

[Claim 11] wherein the additional informational data is based on factors selected from the group consisting of:

household size, household income, occupation, presence of young adult in household, retail purchase activity, political affiliation, corrective lenses, golf participant, cd player owner, personal or home computer owner, pc operating system type, religious or inspirational reader, religiously active, active in theater or performing arts, active in general arts or culture, active in current affairs or politics (Page 3 -- An individual is inquired about sending e-mails to politicians, e.g., active in politics).

E-fluentials discloses a system for identifying individuals in a population having a greater probability than other individuals in the population of influencing the choices made by individuals in the population comprising:

[Claim 12] a. a database populated with answers to queries by individuals in a population such that the answers by an individual in a population indicate whether the individual has a greater probability than other individuals in the population of influencing choices made by individuals in the population (Page 2 -- A quiz is offered to individuals to determine if each individual is an influential person, or "e-fluential. "Representing 10% of the online population, approximately 11 million users, this group reaches more people on more topics than the average online users." Since the quiz is offered over the Internet, the answers must be stored, at the very least temporarily, in a database); and

b. a processor for analyzing the answers by the individuals in the population to determine which of the individuals in the population have a greater probability than other individuals in the population of influencing choices made by individuals in the population (Page 2 -- A quiz is offered to individuals to determine if each individual is an influential person, or "e-fluential. Pages 5-23 show the results of an E-fluential analysis, which are processor-generated, at least on the web site);

[Claim 14] wherein the choices made by individuals are selected from the group consisting of:

consumer product decisions, consumer service decisions, political issue decisions, political candidate decisions, personal finance decisions, investment

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decisions, real estate decisions, insurance decisions, travel decisions, and leisure decisions (Page 3 -- An individual is inquired about sending e-mails to politicians, e.g., a decision relating to politics, and making friends online, e.g., a leisure decision);

[Claim 15] wherein the queries are based on factors selected from the group consisting of:

written or called any politician at the state, local, or national level; attended a political rally, speech, or organized protest of any kind; attended a public meeting on town or school affairs; held or run for political office; served on a committee for some local organization; served as an officer for some club or organization; written a letter to the editor of a newspaper or magazine or called a live radio or TV show to express an opinion; signed a petition; worked for a political party; made a speech; written an article for a magazine or newspaper; and been an active member of any group that tries to influence public policy or government (Page 3 -- An individual is inquired about sending e-mails to politicians, e.g., writing a politician (who is understood in the United States as being at the state, local, or national level), and sending e-mails to well-known news and media companies such as Time, Newsweek, or CNBS, e.g., writing a letter to a newspaper or magazine. The role of the recited editor is not defined in such a way that it affects the structure or functionality of the claimed invention; therefore, any individual who receives e-mail at a well-known news and media company from the potential E-fluential individual can be interpreted as the recited "editor");

[Claim 16] wherein the queries are based on factors selected from the group consisting of:

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written or called any politician or contacted any government official at local regional or national level; attended a political rally, speech or event; attended a public meeting on town or school affairs; led or served on a committee on some local organization; written a letter to the editor of a newspaper or magazine or called a live radio or TV show to express an opinion; made a speech or gave a talk to a group; been an active member of a group that tries to influence public policy or create change in the community; asked a question in a public meeting; made a complaint to a store, company, or organization; made a sizable donation to a local or national organization; attended business lunches or dinners on a regular basis, and organized a special social event (Page 3 -- An individual is inquired about sending e-mails to politicians, e.g., writing a politician (who is understood in the United States as being at a local, regional, or national level)).

E-fluentials discloses a system for identifying individuals in a population having a greater probability than other individuals in the population of influencing the choices made by individuals in the population comprising:

[Claim 17] a. a database populated with answers to queries by individuals in a population such that the answers by an individual in a population indicate whether the individual has a greater probability than other individuals in the population of influencing choices made by individuals in the population (Page 2 -- A quiz is offered to individuals to determine if each individual is an influential person, or "e-fluential. "Representing 10% of the online population, approximately 11 million users, this group reaches more

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people on more topics than the average online users.” Since the quiz is offered over the Internet, the answers must be stored, at the very least temporarily, in a database);

b. a processor for analyzing the answers by the individuals in the population to determine which of the individuals in the population have a greater probability than other individuals in the population of influencing choices made by individuals in the population (Page 2 -- A quiz is offered to individuals to determine if each individual is an influential person, or “e-fluential. Pages 5-23 show the results of an E-fluential analysis, which are processor-generated, at least on the web site);

c. a processor for identifying a group comprised of the individuals who provided the answers to the questions that support the greater probability of influencing the choices made by individuals in the population (Page 2 -- A quiz is offered to individuals to determine if each individual is an influential person, or “e-fluential. Pages 5-23 show the results of an E-fluential analysis, which are processor-generated, at least on the web site);

d. a database populated with additional informational data (Pages 5-23 show the results of an E-fluential analysis. Comparisons are made between identified influential people, or e-fluentials, and the general online population. Since the quiz and related results are offered over the Internet, the answers to the quiz and related results must be stored, at the very least temporarily, in a database);

e. a processor for applying additional informational data to the identified group to assess a relationship between the additional information data and the identified group (Pages 5-23 show the results of an E-fluential analysis, which are processor-generated,

at least on the web site. Comparisons are made between identified influential people, or e-fluentials, and the general online population);

f. a database populated with the additional informational data of a second population of individuals (Pages 5-23 show the results of an E-fluential analysis. Comparisons are made between identified influential people, or e-fluentials, and the general online population. Since the quiz and related results are offered over the Internet, the answers to the quiz and related results must be stored, at the very least temporarily, in a database); and

g. a processor for applying the assessed relationship to a second population of individuals to determine which of the individuals in the second population having a greater probability than other individuals in the second population of influencing the choices made by individuals (Pages 5-23 show the results of an E-fluential analysis, which are processor-generated, at least on the web site. Comparisons are made between identified influential people, or e-fluentials, and the general online population); [Claim 19] wherein the choices made by individuals are selected from the group consisting of:

consumer product decisions, consumer service decisions, political issue decisions, political candidate decisions, personal finance decisions, investment decisions, real estate decisions, insurance decisions, travel decisions, and leisure decisions (Page 3 -- An individual is inquired about sending e-mails to politicians, e.g., a decision relating to politics, and making friends online, e.g., a leisure decision);

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[Claim 20] wherein the queries are based on factors selected from the group consisting of:

written or called any politician at the state, local, or national level; attended a political rally, speech, or organized protest of any kind; attended a public meeting on town or school affairs; held or run for political office; served on a committee for some local organization; served as an officer for some club or organization; written a letter to the editor of a newspaper or magazine or called a live radio or TV show to express an opinion; signed a petition; worked for a political party; made a speech; written an article for a magazine or newspaper; and been an active member of any group that tries to influence public policy or government (Page 3 -- An individual is inquired about sending e-mails to politicians, e.g., writing a politician (who is understood in the United States as being at the state, local, or national level), and sending e-mails to well-known news and media companies such as Time, Newsweek, or CNBS, e.g., writing a letter to a newspaper or magazine. The role of the recited editor is not defined in such a way that it affects the structure or functionality of the claimed invention; therefore, any individual who receives e-mail at a well-known news and media company from the potential E-fluent individual can be interpreted as the recited "editor");

[Claim 21] wherein the queries are based on factors selected from the group consisting of:

written or called any politician or contacted any government official at local regional or national level; attended a political rally, speech or event; attended a public meeting on town or school affairs; led or served on a committee on some local

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organization; written a letter to the editor of a newspaper or magazine or called a live radio or TV show to express an opinion; made a speech or gave a talk to a group; been an active member of a group that tries to influence public policy or create change in the community; asked a question in a public meeting; made a complaint to a store, company, or organization; made a sizable donation to a local or national organization; attended business lunches or dinners on a regular basis, and organized a special social event (Page 3 -- An individual is inquired about sending e-mails to politicians, e.g., writing a politician (who is understood in the United States as being at a local, regional, or national level));

[Claim 22] wherein the additional informational data is based on factors selected from the group consisting of:

household size, household income, occupation, presence of young adult in household, retail purchase activity, political affiliation, corrective lenses, golf participant, cd player owner, personal or home computer owner, pc operating system type, religious or inspirational reader, religiously active, active in theater or performing arts, active in general arts or culture, active in current affairs or politics (Page 3 -- An individual is inquired about sending e-mails to politicians, e.g., active in politics).

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the



invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2, 7, 13, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burson-Marsteller's e-fluentials<sup>SM</sup> research, as disclosed in Burson-Marsteller's archived e-fluentials web site, retrieved from [URL: <http://web.archive.org/.../efluentials.com...>], as applied to claims 1, 6, 12, and 17 above. These web pages have been archived by web.archive.org on June 1, 2002, February 3, 2003, and February 15, 2003.

[Claims 2, 7, 13, 18] E-fluentials does not expressly teach that at least three of the queries answered by the individual in the population in the affirmative indicates whether the individual has a greater probability than other individuals in the population of influencing choices made by individuals in the population; however, E-fluentials explains that e-fluentials frequently perform the activities that are the subject of the quiz used to identify e-fluentials, such as sending e-mails to politicians and well-known news and media companies (pages 3, 11, and 23). Therefore, the Examiner submits that an individual who engages in more of these activities than another would likely be a more influential individual. Consequently, the Examiner further asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify Burson-Marsteller's e-fluentials<sup>SM</sup> research such that at least three of the queries answered by the individual in the population in the affirmative indicates whether the individual has a greater probability than other individuals in the population of influencing choices made by individuals in the population in order to facilitate the identification of

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individuals that are likely more influential in relation to other members of the general population.

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Altschuler et al. (U.S. Patent No. 6,151,585) -- Discloses a method and apparatus for determining or inferring influential rumormongers from resource usage data.

Holzman et al. (US 2002/0062368) -- Discloses a system and method for establishing and evaluating cross community identities in electronic forums.

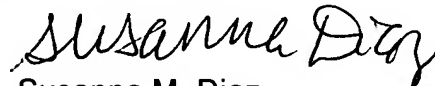
Hawks (US 2005/0049908) -- Discloses a system for influence network marketing.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susanna M. Diaz whose telephone number is (571) 272-6733. The examiner can normally be reached on Monday-Friday, 10 am - 6 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (571) 272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Susanna M. Diaz  
Primary Examiner  
Art Unit 3623

July 8, 2006